

From: Redacted

Sent: 13 May 2020 11:58

To: 'Bob McIntosh' <Bob.McIntosh@landcommission.gov.scot>; 'Sarah Jane Laing' <sarahjane.laing@scottishlandandestates.co.uk>; 'STFA' <stfa@tfascotland.org.uk>; redacted@nfus.org.uk; redacted@rics.org; 'redacted@btconnect.com'

Cc: redacted@landcommission.gov.scot; redacted@gov.scot

Subject: RE: Tenants amnesty - update

All,

The regulations to extend the tenant's amnesty passed through the DPLRC yesterday and were before the REC Committee this morning. The RECC had no questions for the Cabinet Secretary and voted for the regulations to be approved. This means that the regulations will come into force on 12 June and extend the amnesty by 6 months, until 12 December. This can now be shared with your members.

Bob is intending to issue a press release on this, and I am sure would be willing to share lines if others also wish to issue something – please coordinate with him.

Kind regards

Redacted

From: redacted@gov.scot

Sent: 05 May 2020 09:47

To: Bob.McIntosh@landcommission.gov.scot; Sarah Jane Laing <sarahjane.laing@scottishlandandestates.co.uk>; 'STFA' <stfa@tfascotland.org.uk>; redacted@nfus.org.uk; redacted@rics.org; 'redacted@btconnect.com'

Cc: redacted@landcommission.gov.scot; redacted@gov.scot **Subject:** RE: Tenants amnesty - update

All,

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Redacted

From: Redacted

Sent: 24 April 2020 12:10

To: 'Bob McIntosh' <Bob.McIntosh@landcommission.gov.scot>; 'Sarah Jane Laing' <sarahjane.laing@scottishlandandestates.co.uk>; <stfa@tfascotland.org.uk>; redacted@nfus.org.uk; redacted@rics.org; 'redacted@btconnect.com'

Cc: redacted@landcommission.gov.scot; redacted@gov.scot

Subject: RE: Tenants amnesty - update

Apologies for the follow-up email. Just for clarity, this update is for information only and not for widespread dissemination. As the situation with this instrument is not yet entirely confirmed, it would be best to avoid public statements on this until we have more clarity, in order to avoid creating any confusion if there is a delay or if Parliament has issues.

I'd be grateful for your understanding on this matter.

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Subject: RE: Tenants amnesty - update

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This is the plan but of course until the instrument is passed by Parliament we cannot be certain it will come into force. The use of supplementary powers is closely scrutinised and strictly applied against the legislation to ensure that such powers are not used too widely, so whilst we think we can justify the use here, Parliament will have questions. I am not sure at this stage what the arrangements for Parliamentary scrutiny will be, but will let you know.

Please get in touch if you have any questions about this

Kind regards

Redacted

Redacted | Head of Agricultural Holdings Team | Agriculture and Rural Development Division | Scottish Government | D Spur Saughton House | Edinburgh | EH11 3XD

I am currently working from home

email: redacted@gov.scot | telephone: **redacted** | mobile: **redacted**

Please note: I work Monday - Thursday

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From: Redacted
Sent: 07 April 2020 15:20
To: 'Sarah Jane Laing' <sarahjane.laing@scotlandandestates.co.uk>
Subject: RE: extension

OK, thanks 😊

Redacted

From: Sarah Jane Laing <sarahjane.laing@scotlandandestates.co.uk>
Sent: 07 April 2020 15:12
To: Redacted@gov.scot
Subject: RE: extension

Redacted

I think that theres more important stuff to spend time on, so don't worry about it
SJ

Sarah-Jane Laing
Chief Executive

From: redacted@gov.scot
Sent: 07 April 2020 15:06
To: Sarah Jane Laing <sarahjane.laing@scotlandandestates.co.uk>
Subject: RE: extension

Hi SJ,

We had a quick look at rents when considering the potential content of an emergency bill, but in the context of irritancy of leases and eviction. We'll take a look and consider what can be done. Is this something SLE would want to see? (No-one else has asked us for this)

Redacted

From: Sarah Jane Laing <sarahjane.laing@scotlandandestates.co.uk>
Sent: 03 April 2020 17:00
To: redacted@gov.scot
Subject: extension

Redacted

A very quick thought, is there any way that the deadline for agreeing rents could be extended in the same way as the amnesty is being? Not thought this through at all to be honest but if you apply the same logic then its impossible to meet the 28 May deadline
SJ

Sarah-Jane Laing
Chief Executive
Scottish Land & Estates
Stuart House, Eskmills, Musselburgh EH21 7PB
T: 0131 653 5400 **M:** redacted **W:** scotlandandestates.co.uk

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From: Sarah Jane Laing <sarahjane.laing@scottishlandandestates.co.uk>

Sent: 30 March 2020 12:31

To: Redact

Subject: amnesty

Redact

Thought this might be a useful extract from a mid march update from one of our large estates – it reflects conversations we have had with others:

For a process which essentially opened in 2017 uptake has been very slow. Up until Christmas 2019 we had only 5 requests arising mainly in late 2018, representing around 30% of the Estates Tenants. The Christmas mailing from Scottish Government/Tenant Farming Commissioner generated a further 2 requests for discussions towards concluding Amnesty Agreements.

The final approach came from a tenant in February 2020, via an agent, more of which to follow later. Overall therefore; we have less than 50 % of tenants who have requested or initiated an Amnesty Agreement discussion.

We have had conversations with two further tenants, who ultimately decided not to progress and further.

It has also become apparent throughout the process that some of the professional advisers supporting the tenants also do not understand the process. The most notable example of this is one, specialist agricultural law firm which has been advising one of the tenants, who keep pushing for an early outcome despite the fact that the tenant has only one improvement (a building) which they wish to record. That building was erected in 2007 and had the correct Notice provided at that time, by the same specialist law firm. They insisted however that this should be included in an Amnesty Agreement despite assurance being given that the paperwork was all in order.

We have experienced another relatively minor issue, but one which compounds the difficulties and that is the desire of tenants to include what on the face of it appear to be fairly minor improvements, for example; loft insulation, or two double glazed windows, or a leylandii hedge around a garden, or a built-in wardrobe in a bedroom. While in no way seeking to exclude or minimise the importance of these historic works, in many cases the improvement is already many years old and the current value is already low, so future value at waygo will be minimal.

We have struggled to get information from the tenants, this has been important where the estate records do not contain relevant information on a particular improvement. It may simply have been a Notice which stated that a silage pit was to be built without necessarily indicating a location, and trying to drill down on the detail has been frustrating, when access to tenant-controlled information has been poor, information such as year of improvement being carried out, copies of invoices or details, which might yield the dimensions and a date and how it was paid for have frustrated the process and given rise to delays in progress. Further, information and confirmation of planning permission, building warrants, SEPA consent and other statutory consents have also been very difficult to obtain. The apparent lack of records kept by the tenant is something else which the process has highlighted. There have been some surprises that some tenants (only one) have kept very good and detailed records, but the majority have not retained even the most basic of records and this would raise further concerns over the need to retain financial records for at least 6 years for HMRC purposes. Particularly bearing in mind the fact that these were for sizeable investments of £100,000's

The scale of the demand for Amnesty Agreements nationally seems to have been over estimated. From the work we have carried out around 70% of improvements have been properly notified and recorded. The existence of Writing Down Agreements and written consents which indicate the

Improvement/Fixture nature of the proposed works suggests that certainly on this estate the Amnesty was not required and certainly for the more significant improvements where they have taken place, and when we get down to loft insulation or a replacement fitted kitchen the value to an incoming tenant at any future waygo will be minimal and begs the question of the time, effort and expense involved. I cannot believe we are unique in that regard?

Thought it might be useful – and also give an indication as to why so many of the amnesty discussions which are still ongoing may not have been concluded

Regards

SJ

Sarah-Jane Laing

Chief Executive

Scottish Land & Estates

Stuart House, Eskmills, Musselburgh EH21 7PB

T: 0131 653 5400 M: redacted W: scottishlandandestates.co.uk

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From: Redacted
Sent: 01 September 2020 14:29
To: redacted@scottishlandandestates.co.uk
Subject: RE: SG - today's programme for government

[redacted - s38(1)
(b)]

Just received the link to the document for when it goes live.
<https://www.gov.scot/isbn/9781839609954>

Thanks,
Redacted

Redacted
Head of Land Reform and Land use
Email: **Redacted**
Blackberry: **Redacted**
My working hours are currently 8:30 – 5, Monday to Friday.

From: Redacted
Sent: 01 September 2020 13:27
To: redacted@scottishlandandestates.co.uk'
Subject: FW: SG - today's programme for government

Good afternoon Redacted,

I received an out of office from Sarah – Jane. Are you available for a call re the PfG publication at all?

Thanks,
Redacted

Redacted
Head of Land Reform and Land use
Email: **Redacted**
Blackberry: **Redacted**
My working hours are currently 8:30 – 5, Monday to Friday.

From: Redacted
Sent: 01 September 2020 12:43
To: 'sarahjane.laing@scottishlandandestates.co.uk' <sarahjane.laing@scottishlandandestates.co.uk>
Subject: SG - today's programme for government

Dear Sarah-Jane,

I hope you are well, and many congratulations on your appointment as Chief Executive at SL & E.

I have recently (after being elsewhere for three years) been appointed as Head of Land Reform and Land Use at SG, and I am very much relishing being back working in this area again.

With today being programme for government day, we are making contact with all key stakeholders to discuss the commitments that are being made. In addition, it would be really helpful for me to catch up with you at some point to discuss various land reform and land use matters.

Would you be free today for a quick call, Or over the next couple of days for a longer chat?

Look forward to hearing from you,

Thanks,
Redacted

Redacted

Head of Land Reform and Land use

Email: **Redacted@gov.scot**

Blackberry: **Redacted**

My working hours are currently 8:30 – 5, Monday to Friday.

From: redacted@scottishlandandestates.co.uk>

Sent: 14 August 2020 15:47

To: Redacted@gov.scot>

Cc: redacted@gov.scot>; Redacted@gov.scot>

Subject: RE: Agriculture (Retained EU Law and Data) (Scotland) Bill - Stage 3 Preparations

Hi Redacted

Thanks for that, Tuesday at 11.30 is best for me, but I can do Monday between 10 and 11.30. Should still manage some time off. It's my own fault for picking the week before Stage 3 but we didn't have a date when I booked it and thought id got away with it.

Thanks,

Redacted

From: redacted@gov.scot

Sent: 14 August 2020 15:40

To: redacted

Cc: Redacted@gov.scot; redacted@gov.scot

Subject: RE: Agriculture (Retained EU Law and Data) (Scotland) Bill - Stage 3 Preparations

Hi Redacted,

I can only imagine how busy things have been with you and more than happy to find some time that works for you next week (and hope that means you can still get a few days leave). I have suggested times, and imagine for approx. 45mins, but can be reasonably flexible to fix round other commitments you may have:

- Mon 17 Aug – available between 9:30 – 11:30 or flexible after 12:30 (but recognise morning was your preference)
- Tues 18 Aug – can be flexible from 9:30

If you let me know which day and time works best for you that would be great.

Redacted

Rural Support Bill Team Lead | Agriculture Policy Division | Scottish Government

Tel: 0131 244 redacted | Mob: redacted

I am working remotely and contactable via email, Skype, or on my mobile number above

From: redacted@scottishlandandestates.co.uk>

Sent: 14 August 2020 15:15

To: redacted@gov.scot>

Subject: RE: Agriculture (Retained EU Law and Data) (Scotland) Bill - Stage 3 Preparations

Hi redacted,

Apologies for a slow response I'm usually better but it's been a busy few weeks here. {Redacted} It would be great to catch up ahead of Stage 3. Have you any time Monday or Tuesday morning?

Best wishes,

redacted

From: redacted@gov.scot>

Sent: 06 August 2020 14:10

To: redacted@scottishlandandestates.co.uk>

Subject: RE: Agriculture (Retained EU Law and Data) (Scotland) Bill - Stage 3 Preparations

Hi redacted – I hope you are well and have managed to get some off work. Just touching base to check whether it would be useful to catch up following Stage 2 and in advance of Stage 3?

Redacted

Rural Support Bill Team Lead | Agriculture Policy Division | Scottish Government

Tel: 0131 244 Redacted | Mob: redacted

I am working remotely and contactable via email, Skype, or on my mobile number above

From: redacted@gov.scot>

Sent: 16 July 2020 15:45

To: Redacted@scottishlandandestates.co.uk

Cc: redacted@gov.scot>; redacted@gov.scot>

Subject: Agriculture (Retained EU Law and Data) (Scotland) Bill - Stage 3 Preparations

Hi Redacted

Agriculture (Retained EU Law and Data) (Scotland) Bill

As discussed at the ARD Stakeholder Group meeting this morning, we expect the Stage 3 process for the Bill to be held sometime soon after the Scottish Parliament returns from its summer recess,

however, it goes without saying that due to the on-going situation with the Covid-19 pandemic, that timing is subject to change.

The Bill Team would be happy to meet with stakeholders, to discuss any issues you may have in relation to the Bill, ahead of the Stage 3 process. If SLE would find it useful to have a chat with the team, please drop us an email to

mailto:agriculture.scotlandbill@gov.scot

Background

The Bill completed its Stage 2 process on 17 June and the Bill as amended at Stage 2 can be viewed on the Scottish Parliament website at <https://beta.parliament.scot/-/media/files/legislation/bills/current-bills/agriculture-retained-eu-law-and-data-scotland-bill/stage-2/agriculture-retained-eu-law-and-data-scotland-bill-as-amended-at-stage-2.pdf>

Regards

Redacted

Redacted / Rural Support Bill Team / ARD Division / Scottish Government / D Spur / Saughton House / Broomhouse Drive / Edinburgh, EH11 3XD

Tel: 0300 244 Redacted / Mobile: redacted / Email: redacted@gov.scot

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From: Redacted

Sent: 05 March 2020 14:31

To: redactednfus.org.uk; redacted@hotmail.com; redacted@drural.co.uk; Sarah Jane Laing <sarahjane.laing@scottishlandandestates.co.uk>; redacted@rics.org; stfa@tfascotland.org.uk

Cc: Bob McIntosh <Bob.McIntosh@landcommission.gov.scot>; redacted@landcommission.gov.scot>; redacted@gov.scot>

Subject: Rent review provisions

Dear all,

As you are all aware, we have been working on the regulations relating to rent review. At the last TFAF I said that I hoped that we would be in a position to introduce these shortly. In the period since then, as we have worked on the regulations, it has become increasingly apparent that there are still significant difficulties to be addressed and disagreements in position – not particularly in the regulations but in the Code of Practice which will accompany them. I am also aware from conversations with some of you that there remain significant misgivings about whether these changes to the rent review process will have a positive effect on the tenanted sector. Some of these misgivings have been there for some time, but we are now reaching a point where it is vital that we have some clarity. Following a conversation with Bob, we have agreed that it is important that we understand where everyone stands on this before we move any further forward. Therefore, I am writing to you all to ask you for a clear steer on how to proceed so that we can advise (redacted) You will all be aware that (redacted) will not wish to take regulations to the REC Committee if fundamental differences of opinion remain between stakeholders about the issue.

I would be grateful if you could confirm, on behalf of your organisation, whether you feel that we should be pushing ahead with the rent regulations at this time. These regulations and the accompanying code of practice will represent significant change in the way that rents are to be determined by the Land Court – do you think that they will be able to achieve the ‘fairer’ rent which was envisaged?

If you do not wish us to take forward the rent provisions, are there alternatives you think we should consider? For example, are there tweaks to the 2003 Act which could make a difference? Would it be helpful if we investigated mandatory mediation before a case can go to the Land Court? The state of the tenanted sector has clearly evolved since the passage of the Act – it seems to us that the creation of the TFC is having a very positive effect, reducing and/or defusing conflict in a way which may mean that this significant change is no longer required. If this is the case, then that is a positive message to give to (redacted) and to the REC Committee, who will wish to scrutinise this.

If we are to go ahead with the new provisions, then there remain some issues to be resolved. The regulation will define productive capacity and provide for statements of facts to be provided to the Land Court so that they can determine a fair rent. The Code of Practice will contain the additional detail about how we propose that they get to that. This will not be binding – the power we have does not allow us to put this detail into legislation, and there is no provision for statutory guidance – but the Land Court must have regard to it. This will include the matters upon which we have

already settled – the gross output methodology, black-patching of tenants improvements, treatment of non-black patched improvements as value to the incoming tenant, gross profit considered to be 25% of gross output. I am aware that not all of you were in agreement when we settled on these matters, but we were clear that a majority view would be taken and in the event that we continue with the regulations we are not proposing to reopen the debate on these issues. However, we have still to agree an appropriate way to reflect the value provided by a farmhouse.

I would be very grateful for a response by 20 March - this will give us time to take stock before Easter recess. At the moment, I would be grateful if you didn't share this widely – we don't want to cause any confusion or misunderstanding, simply to be clear about where we all stand so that we can advise (redacted). Please contact me, **redacted** or Bob if you want to discuss this further or if the deadline will cause you a problem.

Many thanks

Redacted

Redacted | Head of Agricultural Holdings Team | Agriculture and Rural Development Division | Scottish Government | D Spur Saughton House | Edinburgh | EH11 3XD

email: redacted@gov.scot | telephone: +44 (0)131 244 **redacted**

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